

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re Royal Bank of Scotland Group plc  
Securities Litigation

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) 09 Civ. 300 (DAB)  
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) ECF Case  
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**DECLARATION OF KENNETH M. LEHN [CORRECTED]**\*

I, Kenneth M. Lehn, hereby declare as follows:

**I. Qualifications**

1. I am the Samuel A. McCullough Professor of Finance in the Joseph M. Katz School of Business at the University of Pittsburgh. I teach graduate level courses in finance, including courses on business valuation, corporate restructuring, and corporate governance. I also am an affiliated professor in the School of Law at the University of Pittsburgh, where I teach a finance course for law students. I have published more than 35 papers in academic journals and scholarly books, primarily in the field of corporate finance.

2. I was chief economist of the Securities and Exchange Commission (“the Commission”) during 1987 to 1991 and deputy chief economist at the Commission during 1984 to 1985. Since leaving the Commission in 1991, I have been retained many times by the

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A post-filing audit of the data revealed coding errors in the data set provided by Thomson. Those errors have been corrected, and this corrected declaration provides the percentage of RBS ordinary shareholders in the U.K., the U.S., and the rest of the world based on the corrected data set. As to those percentages, in all cases, the corrected percentages are within one percentage point of the originally reported percentages.

Commission, the Department of Justice, and private parties to offer opinions on various topics related to public securities markets.

3. I received a B.A. in economics from Waynesburg College in 1975, an M.A. in economics from Miami University in 1976, and a Ph.D. in economics from Washington University in 1981. My curriculum vitae, attached as Exhibit 1, includes lists of my publications and testimony during the past four years.

## **II. Scope of Assignment**

4. I have been retained by counsel for Royal Bank of Scotland Group plc (“RBS”) to:

- Estimate the percentage of owners of RBS ordinary shares in the United Kingdom, the United States, and the rest of the world.
- Compare the dollar volume of trading in RBS American Depositary Receipts (“ADRs”) to the dollar volume of trading in RBS ordinary shares from March 1, 2007 through January 19, 2009.
- Compare the dollar volume of trading in RBS preferred shares, Series Q through U, to the dollar volume of trading in RBS ordinary shares from March 1, 2007 through January 19, 2009.

## **III. Materials Reviewed**

5. I have reviewed numerous materials, including the Consolidated Amended Complaint (the “Complaint”), RBS shareholder lists, data provided by Thomson Financial, and publicly available data on trading of RBS securities and prices.

#### **IV. Compensation**

6. I am being compensated at a rate of \$950 per hour. I also expect to receive compensation from Compass Lexecon based on its non-officer staff billings collected in support of my work in this matter.

#### **V. During the Class Period, an Estimated 1.5 Percent to 2.5 Percent of the Owners of RBS Ordinary Shares Were U.S. Investors.**

7. I have been asked to estimate the percentage of owners of RBS ordinary shares<sup>1</sup> in the United Kingdom, the United States, and the rest of the world. I have been asked to calculate these percentages as of three dates: March 31, 2007 (the first end-of-quarter within the class period); March 31, 2008 (one year later); and December 31, 2008 (the final end-of-quarter date within the class period).<sup>2 3</sup>

#### Nominee Accounts

8. When an individual or institution purchases shares of a publicly-traded company, the purchase is often recorded through an institution that holds the shares in a single account on the books and records of the publicly-traded company, called a “nominee” account.<sup>4</sup> This account contains shares owned by multiple individuals and/or institutions. The address of the nominee account does not necessarily reflect the location of the underlying owners of the shares.

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<sup>1</sup> These are also known as “common shares.”

<sup>2</sup> Data is more accurate at the end of the quarter, because some of the relevant data is publically reported at that time.

<sup>3</sup> The class period extends from March 1, 2007 through January 19, 2009.

<sup>4</sup> The nominee performs services for shareholders such as crediting dividend payments and distributing investor information such as annual reports.

To determine the location of the actual shareholders, my analysis examines data beneath the level of the nominee account.

#### Data Sources

9. I used two primary data sources for my calculations: RBS shareholder lists and data from Thomson Financial.

10. *RBS Shareholder Lists*: RBS provided shareholder lists for each date, which included investors' mailing addresses. This data source has two limitations. First, a significant number of accounts, which hold the vast majority of the shares, are in "nominee" accounts.<sup>5</sup> Although the majority of the nominee accounts have U.K. addresses, as explained, these addresses do not necessarily reflect the location of the underlying RBS shareholders. Thus, one cannot identify the geographical distribution of shares held in these nominee accounts from this data source alone.

11. Another, though less significant, limitation of the RBS shareholder lists is that the lists for March 2007 and March 2008 provide historical information only for current holders of RBS ordinary stock.

12. *Data from Thomson Financial*: The second data source, Thomson Financial, provided data on owners *within* nominee accounts, i.e., data on the underlying owners of shares

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<sup>5</sup> For example, about 90 percent of the shares on March 31, 2007 were held in nominee accounts.

held in a nominee account.<sup>6</sup> The Thomson data provides information for between roughly 38 percent and 63 percent of shares contained in the nominee accounts for the three dates.<sup>7</sup>

Calculation methodology

13. I performed the calculations in two different ways. First, I combined the two data sets and calculated the relevant percentages. I refer to this approach as the “Observed” Approach. Second, I made certain assumptions relating to the unknown shareholders in each data set before combining the data. This approach is referred to as the “Extrapolated” Approach. Specifically, with respect to unknown shareholders within nominee accounts, I assumed that the unknown shareholders have the same geographical distribution as the known shareholders within nominee accounts. With respect to the RBS shareholder lists, I assumed that the unknown shareholders have the same geographical distribution as the known non-nominee shareholders.<sup>8</sup>

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<sup>6</sup> I understand that RBS contracted with Thomson Financial to provide information about the location (by country) of shareholders whose shares are held within nominee accounts. I also understand that Thomson Financial collects such information for public companies such as RBS routinely as a service it offers its clients.

<sup>7</sup> Specifically, the Thomson data provides information on the following percentages of nominee shares for the three dates: 40.0% for March 31, 2007; 62.9% for March 31, 2008; and 37.7% for December 31, 2008.

<sup>8</sup> As noted, the RBS shareholder lists only have historical holdings data for current shareholders. The unknown shareholders are more likely to be non-nominee accounts, as a nominee account is likely to maintain holdings over time (even if there is turnover within the account; in other words, the number of shares and the owners of those shares may change, but the nominee account itself remains in existence, serving whatever shareholders exist at a given time).

Results

14. The estimated percentages of RBS ordinary shareholders in the U.K., the U.S., and the rest of the world, on the three dates, are as follows:

	<b>Percentage of Shareholders in the U.K., U.S., and Other</b>	
<b>3/31/2007</b>	Observed	Extrapolated
United Kingdom	91.3%	91.6%
United States	2.0%	1.9%
Other	6.7%	6.6%
<b>3/31/2008</b>	Observed	Extrapolated
United Kingdom	91.4%	92.1%
United States	1.7%	1.4%
Other	6.9%	6.5%
<b>12/31/2008</b>	Observed	Extrapolated
United Kingdom*	93.1%	91.5%
United States	1.1%	1.7%
Other	5.8%	6.8%
*(includes shares owned by U.K. Treasury)		

15. I note that even though the U.K. Government owned a majority of the ordinary shares on December 31, 2008, the U.K. Government is treated as a single shareholder for the purposes of this analysis.

**VI. The Total Dollar Volume of Trading in RBS ADRs Was Approximately 0.5 Percent of the Total Dollar Volume of Trading in RBS Ordinary Shares from March 1, 2007 through January 19, 2009.**

16. I have been asked to compare the dollar volume of trading in RBS ADRs to the dollar volume of trading in RBS ordinary shares over the period from March 1, 2007 through January 19, 2009. To do so, I collected data on RBS ADRs and ordinary shares. Prices of RBS

ordinary shares were converted from pounds to dollars using the spot exchange rate between dollars and pounds each day.<sup>9</sup>

17. Over the period from March 1, 2007 through January 19, 2009, the total dollar volume of trading in RBS ADRs was approximately 0.5 percent of the total dollar volume of trading in RBS ordinary shares.

18. Exhibit 2 provides more detail on this by showing the ratio of the dollar volume of trading in RBS ADRs to the dollar volume of trading in RBS ordinary shares over the period.<sup>10</sup> The exhibit also shows RBS's ordinary common stock price over the period. The exhibit shows that ADR dollar trading volume was a small fraction of ordinary share dollar trading volume throughout the period. While ADR dollar trading volume as a percentage of ordinary share dollar trading volume increased at the end of the period, this was after RBS's stock price had declined substantially. Consequently, the dollar trading volumes of ADRs and ordinary stock at that time was relatively small compared to previous trading volume. In short, RBS ADR trading was a small fraction of ordinary share trading throughout the period.

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<sup>9</sup> A leading finance textbook defines the spot exchange rate as “the exchange rate between two currencies for immediate delivery.” See Stephen A. Ross, Randolph W. Westerfield, and Jeffrey Jaffe, *Corporate Finance*, McGraw-Hill Irwin, 2005, p. 905.

<sup>10</sup> In the exhibits, the ratio of ADR (or preferred) dollar trading volume to ordinary share dollar trading volume is calculated using total ADR (or preferred) dollar volume and total ordinary share dollar volume over 21-trading-day windows beginning 20 days before the indicated date and ending on the indicated date. This approach of performing the calculation over a moving window is a commonly-used technique that smoothes out day-to-day fluctuations in the data that can obscure larger trends.

**VII. The Total Dollar Volume of Trading in RBS Preferred Shares, Series Q through U, Was Approximately 0.8 Percent of the Total Dollar Volume of Trading in RBS Ordinary Shares from March 1, 2007 through January 19, 2009.**

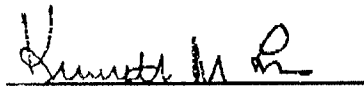
19. I also have been asked to compare the dollar volume of trading in RBS preferred shares, Series Q through U, to the dollar volume of trading in RBS ordinary shares over the period from March 1, 2007 through January 19, 2009. To do so, I collected data on RBS preferred and ordinary shares. Prices of RBS ordinary shares were converted from pounds to dollars using the spot exchange rate between dollars and pounds on each day.

20. Over the period from March 1, 2007 through January 19, 2009, the total dollar volume of trading in RBS preferred shares, Series Q through U, was approximately 0.8 percent of the total dollar volume of trading in RBS ordinary shares. Exhibit 3 shows the ratio of the dollar volume of trading in RBS preferred shares to the dollar volume of trading in RBS ordinary shares over the period as well as RBS's ordinary stock price over the period. Results are similar to those for RBS's ADR trading. RBS preferred stock trading was a small fraction of ordinary share trading throughout the period.



I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 21, 2009

A handwritten signature in black ink, appearing to read "Kenneth M. Lehn", is written over a horizontal line.

**Kenneth M. Lehn**